



STATE OF TENNESSEE
TENNESSEE COMMISSION ON CHILDREN AND YOUTH

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**Legislative Guidance
2017**

SB 326 (Harris)/HB 380 (Love)

TLS Bill Summary: Prohibition of juveniles in solitary confinement. Prohibits any child who is alleged to have committed a delinquent act or be unruly shall not be subject to solitary confinement while the child is detained in a juvenile facility.

Additional Summary Clarification: Includes a list of “whereas” clauses chronicling why solitary confinement is not good for children. Defines solitary confinement and makes clear this does not mean placement in a single-occupancy room. Specifies that a child who is alleged or found to be delinquent or unruly shall not be subject to solitary confinement while the child is detained in a juvenile facility.

Changes in Current Law: Solitary confinement is not currently prohibited in juvenile facilities by either law, policy or standards.

TCCY Legislative Guidance SUPPORT: TCCY supports prohibiting the placement of children in solitary confinement. The American Academy of Child and Adolescent Psychiatry says solitary confinement can lead to depression, anxiety, and even psychosis. Research indicates social isolation is harmful. Solitary confinement denies children needed contact with and support from adults who can help them understand and deal with the circumstances that resulted in their incarceration. Solitary confinement increases the potential for mental health problems and further damage from the experiences these children have had. Children in the juvenile justice system need therapeutic environments that contribute to the goal of rehabilitation, rather than further traumatizing them.

SB 919 (Dickerson)/HB 825 (Gilmore)

TLS Bill Summary: Community-based sentencing alternatives for primary caregivers. Requires the court to impose an individually assessed sentence without imprisonment, based on community rehabilitation if the court determines a person convicted of a nonviolent offense is a primary caretaker of a dependent child. Specifies the sentence will focus on parent-child unity and support. Authorizes the court to require the person to meet conditions the court deems appropriate, including drug and alcohol treatment and domestic violence education. Authorizes

the court to require a person serving an individually assessed sentence to appear in court at anytime during their sentence for evaluation. Allows the court to modify the sentence, decrease the duration of the sentence, or sanction the person for a violation of the sentence.

Changes in Current Law: Defines/describes primary caretaker. Authorizes imposition of various requirements to address underlying problems leading to the offense, and authorizes evaluation of progress in treatment or rehabilitation, including requiring to appear in court, and to modify the conditions of the sentence.

TCCY Legislative Guidance: SUPPORT with Amendment: TCCY supports strategies to improve community safety and reduce recidivism by the imposition of sentences to address the circumstances that led to the offense and provide for more effective rehabilitation and restoration of the offender. TCCY especially supports keeping non-violent offenders in a position to maintain care and support for their children. Parental incarceration is one of the recognized Adverse Childhood Experiences that could be prevented through the passage of this legislation. The authorized alternative requirements include a variety of strategies that would help address other Adverse Childhood Experiences, including drug and alcohol treatment, domestic violence education and prevention, and physical and sexual abuse counseling, as well as strategies that address other sources of toxic stress, including anger management, vocational and educational services, job training and placement, affordable and safe housing, assistance financial literacy, parenting classes, and family and individual counseling or case management services. The focus on maintaining parent-child unity and support is a two-generation strategy to prevent and mitigate Adverse Childhood Experiences. This bill should be amended to provide that the court shall consider whether an alternative sentence is appropriate and in the best interests of the child rather than a strict requirement to impose an individually assessed sentence for a primary caretaker.

SB 197 (Overby)/HB 294 (McCormick)

TLS Bill Summary: Rules for sentencing juveniles convicted in criminal court. Establishes factors a court must consider when sentencing a juvenile who has been transferred and convicted in adult court, such as age, level of participation in the crime, family environment, intellectual capacity, etc. Sets a maximum number of years, depending on whether the crime results in death or not, a juvenile can be required to serve for adult crimes. Makes the provisions retroactive to juveniles serving adult sentences prior to effective date

Additional Summary Clarification: Adds factors to be considered when a person is convicted in criminal court for an offense committed when the individual was less than 18 years of age, including but not limited to age, level of participation, relationship between abuse, neglect or exploitation of the juvenile and the offense, intellectual capacity, capacity for rehabilitation, trauma history, including any adverse childhood experiences, involvement in the child welfare system, etc. Unless eligible for earlier parole, provides eligibility for release after 15 calendar years of incarceration for an offense that did not result in the death of a victim, or 20 years if there was a death involved. Specifies factors to be considered by the parole board, including but not limited to whether the inmate has been compliant with institutional rules, recommendation of the district attorney where the crimes were prosecuted, victim/victim's family statement, whether

sincerely remorseful, demonstration of maturity, rehabilitation and fitness to reenter society, inmate's family and community circumstances at the time of the offense, including any history of abuse, trauma or involvement in the child welfare system, or additional adverse childhood experiences. Applies the provisions retroactively. Prohibits the imposition of life without parole for offenses committed before 18 years of age.

Changes in Current Laws: Decisions of the United States Supreme Court dating back to 2005 have reshaped juvenile justice. In 2005, the Court prohibited the death penalty for juveniles (*Roper v. Simmons*). In 2010, the Court prohibited the sentence of life without parole for juveniles convicted of non-homicide offenses (*Graham v. Florida*). In 2012, the Court prohibited the mandatory sentence of life without parole for juveniles, even if the juvenile is convicted of homicide (*Miller v. Alabama*). In 2016, the Court held *Miller* applies retroactively and juveniles sentenced to life without parole prior to *Miller* must be given an opportunity to argue that they should be released from prison.

The Court relied on behavioral and brain research to affirm youth are not as mature as adults. Therefore, youth are not as culpable as adults in the commission of delinquent/criminal offenses. Additionally, the Court used the same body of research to affirm youth are more likely to change over time. *Juvenile Sentencing in a Developmental Framework: The Role of the Courts (Models for Change)*.

This legislation would establish a clear procedure for Tennessee to come into compliance with these U.S. Supreme Court rulings. This will avoid potentially lengthy litigation to determine how these rulings would be implemented in Tennessee.

TCCY Legislative Guidance: SUPPORT: Brain research confirms the development of the human brain, especially the frontal cortex, the part that controls executive functions such as judgment, self-regulation and impulse control, is not completed until around age 23 to 25. This legislation establishes a procedure for a young person who has committed a serious crime as a juvenile and been convicted as an adult and received a lengthy prison sentence to be considered for parole after 20 years if the offense resulted in the death of a victim, and after 15 years if there was no death. The bill identifies the factors that result in youth making bad decisions that lead to such a conviction, including adverse childhood experiences, and provides for their consideration in the initial sentencing. It also identifies the factors of progress that might warrant release by the parole board after 15 or 20 years, again including adverse childhood experiences. The legislation does not mandate release after 15 or 20 years; it only provides eligibility for consideration for parole at that time, thereby establishing a case-by-case procedure for the parole board to consider release for an individual who meets the criteria set out in the legislation. Passage of this legislation provides incentives for these individuals to turn their lives around and provides the potential for release and the opportunity to become a productive, contributing adult. TCCY supports the retroactive provisions of the legislation, and the future prohibition of life without parole for offenses committed prior to age 18. As a result of the U.S. Supreme Court Rulings, Tennessee needs legislation like this to specify the procedure for the state to comply and provide a second chance for those who have earned it.

SB 311 (Lundberg)/HB 402 (Hicks)

TLS Bill Summary: Offenses for juveniles to be tried as adults. Amends language to include that a child who was sixteen years or more of age at the time of the alleged conduct, or the child was less than sixteen years of age, can be transferred to a criminal court of competent jurisdiction to be tried as an adult if the child was charged with the offense of; first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, commission of an act of terrorism, or an attempt to commit any such offenses. The district attorney general may not seek, nor may any child receive, a sentence of death for the offense for which the child was transferred.

Additional Summary Clarification: Terrorism is defined in 39-13-803. As used in this part, unless the context otherwise requires: (1) "Act of terrorism" means an act or acts constituting a violation of this part, any other offense under the laws of Tennessee, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States that contains all of the elements constituting a violation of this part or is otherwise an offense under the laws of such jurisdiction, that is intended, directly or indirectly, to: A) Intimidate or coerce a civilian population; (B) Influence the policy of a unit of government by intimidation or coercion; or (C) Affect the conduct of a unit of government by murder, assassination, torture, kidnapping, or mass destruction.

Changes in Current Law: This Legislation would add commission of an act of terrorism to the list of offenses youth under 16 years of age may be transferred for trial in criminal court.

TCCY Legislative Guidance: SUPPORT with no amendments. TCCY supports adding terrorism to the list of offenses for which youth under 16 can be transferred only if there are no amendments adding additional offenses and further broadening the scope of the statute. TCCY traditionally opposes efforts to expand transfer statutes that lead to more juveniles being incarcerated with lengthy sentences or a life sentence. TCCY is not opposed to adding terrorism to the transfer statutes because of the possibility of an incident that could lead to a public outcry and overreaction, jeopardizing important policies or reforms, including maintaining juvenile court jurisdiction until age 18 or efforts to more appropriately address lengthy sentences for young persons tried and convicted as adults for offenses committed prior to the age of 18. TCCY is consistently opposed to expanding transfer authority because brain research confirms the development of the human brain, especially the frontal cortex, the part that controls executive functions such as judgment, self-regulation and impulse control, is not completed until around age 23 to 25.

SB 640 (Roberts)/HB 821 (Reedy)

TLS Bill Summary: Penalties for person leaving loaded, unsecured firearm near a child. Creates a class A misdemeanor for the offense of reckless endangerment by leaving a loaded, unsecured firearm near a child under the age of fourteen. Creates a class B misdemeanor for the offense of authorizing a child less than twelve years of age to use a firearm unless the child is under the supervision of an adult. Clarifies the definition of adult.

Additional Summary Clarification: Specifies it is reckless endangerment to leave a loaded, unsecured firearm in such a manner that it endangers the life or health of a child less than 14 years old.

Changes in Current Law: Tennessee law [39-17-1319(a)(2)] prohibits a parent or guardian from intentionally, knowingly, or recklessly providing a handgun to a juvenile or permitting a juvenile to possess a handgun, if such parent or guardian knows of a substantial risk that such juvenile will use the handgun to commit a felony. TCA [39-17-1312(a)] prohibits anyone 18 or older, including a parent or guardian, who knows that a minor or student is in illegal possession of a firearm in or upon the premises of a stadium or other facility or building where school sponsored athletic events are conducted, or a public park, or playground or civic center, from failing to prevent the possession or failing to report the possession to the appropriate school or law enforcement officials. However, current reckless endangerment provisions do not specifically include access to a loaded firearm for children under age 14.

TCCY Legislative Guidance: SUPPORT: Access to unsecured, loaded firearms is a danger to both individual children and the community. Nationally, the AP and USA TODAY Network found that children died from accidental shootings at a rate of one every other day. A 2005 study of adult firearm storage practices found that nearly 2 million children under 18 live in homes with easily accessible loaded and/or unlocked guns. In a policy statement the American Academy of Pediatrics recommends keeping guns locked and unloaded. Likewise, research shows that keeping a gun locked, unloaded, and storing ammunition in a separate, locked location reduces firearm injuries of children and teenagers.

In Tennessee in 2016, there were 24 incidents of accidental shootings involving children 0 to 17. So far in 2017, one child has died, and another child has been injured by access to loaded, unsecured firearms. Child Access Prevention (CAP) Laws are associated with fewer nonfatal gun injuries of children under 18. TCCY supports laws that reduce deaths caused by access to unsecured, loaded firearms.

SB 775 (Beavers)/HB 794 (Sparks)

TLS Bill Summary: Prohibits interrogation of a child without parent's consent. Prohibits interrogation of a child who has been taken into custody for committing a delinquent act except in the presence of the child's legal counsel, parent, guardian, or custodian. Requires that a video recording be made of the interview and that the child be informed of their rights pertaining to this law.

Additional Summary Clarification: This legislation amends current law to clarify in the code that a child has a right to legal counsel during all stages of any proceedings by adding the following new section to 37-1-113:

(c) When a child is taken into custody due to suspicion that the child has committed a delinquent act or unruly conduct that places the child in jeopardy of being removed from the home pursuant to § 37-1-132(b), the child shall immediately be informed of the rights

listed in this subsection. The following rights shall be posted where the child may read them, and such rights shall be read to the child:

- (1) The right to be informed of the reason the child was taken into custody;
- (2) The right to be released to a parent, guardian, or other custodian within a reasonable time or delivered to a detention facility, shelter facility, or medical facility, pursuant to § 37-1-115;
- (3) The right to legal counsel during all stages of any proceedings including any interview or interrogation, pursuant to § 37-1-126; and
- (4) The right to have the child's legal counsel, parent, guardian, or custodian present during any interview or interrogation concerning any violation of state or federal law, which cannot be waived.

The legislation further amends 37-1-126(a)(1) by deleting the current language reading:

- (1) A child is entitled to representation by legal counsel at all stages of any delinquency proceedings or proceedings alleging unruly conduct that place the child in jeopardy of being removed from the home pursuant to § 37-1-132(b) and is entitled to a guardian ad litem for proceedings alleging a child to be dependent and neglected or abused.

And substituting:

- (1) A child is entitled to representation by legal counsel at all stages of any delinquency proceedings or proceedings alleging unruly conduct that place the child in jeopardy of being removed from the home pursuant to § 37-1-132(b), including any interview or interrogation, and is entitled to a guardian ad litem for proceedings alleging a child to be dependent and neglected or abused.

The legislation further amends 37-1-126 by adding the following new subsection:

- (d) When a child has been taken into custody due to suspicion that the child committed a delinquent act or unruly conduct that places the child in jeopardy of being removed from the home pursuant to § 37-1-132(b), no person may interview or interrogate the child concerning any violation of state or federal law by the child unless in the presence of the child's legal counsel, parent, guardian, or custodian. A video recording shall be made of any interview or interrogation of the child. The requirements of this subsection shall not be subject to waiver by the child.

Effect of Changes in Current Law: This legislation expands the existing right of youth to be represented by counsel, including during the interview and interrogation stages of the investigation. It further requires that youth taken into custody due to suspicion that the child committed a delinquent or unruly act only be questioned in the presence of the child's legal counsel, parent, guardian or custodian. The legislation also requires that a video recording be made of any interview or interrogation of the child.

Children already have a right to legal counsel; this legislation simply extends that right to counsel to the interview and interrogation phase of the investigation. This legislation does provide that children be "Mirandized," or read their rights when being taken into custody, and

that those rights be posted where the child may read them and also read to them.

TCCY Recommended Position: COMMENT- TCCY supports the expansion of the right to the presence of a parent, guardian or attorney when a youth suspected of delinquent or unruly behavior has been taken into custody and during the interview and interrogation phase of an investigation. Children are often intimidated by law enforcement or judicial authorities and may say things, including admissions that are not true, during questioning. Such comments or admissions may adversely affect their defense in court. Research shows the brains of adolescents are not fully developed until their mid-twenties, and they lack the executive decision-making skills to comprehend the long-range consequences of what they say during interview and interrogation. Implementation of these requirements could present challenges, and there are concerns about the feasibility of implementation of the video taping requirement.

SB 1253 (Norris)/HB 636 (Akbari)

TLS Bill Summary: Expunction of juvenile court records. Makes changes to the expunction of juvenile court records, including creating a process for the expunction of juvenile court records for cases in which the juvenile successfully completed pretrial or judicial diversion.

Changes in Current Law: Clarifies provisions for expunction in juvenile court. This legislation is the result of deliberation and work by the Administrative Office of the Courts Court Improvement Committee. It includes a requirement that sealed orders and petitions are not released to anyone except at the written request of the person whose records are expunged or in response to an order of a court with proper jurisdiction.

TCCY Legislative Guidance: SUPPORT: TCCY supports legislation to clarify the procedures and impact of expunction of juvenile court records. Children who have turned their lives around and met the criteria for expunction of their records deserve a second chance at becoming productive citizens. It is in the best interests of all for the procedure and implications of this process to be clear.

SB 1392 (Tate)/HB 826 (Gilmore)

TLS Bill Summary: Conviction of first degree murder when defendant was minor. Amends language to instruct a jury in sentencing for first degree murder, that a defendant who receives a sentence of imprisonment for life without possibility of parole shall never be eligible for release on parole. The jury will also be instructed that a defendant who receives a sentence of imprisonment for life shall not be eligible for parole consideration until, if the defendant was over eighteen (18) years of age at the time the offense was committed, the defendant has served at least fifty-one (51) full calendar years of the sentence, or if the defendant was less than eighteen (18) years of age at the time the offense was committed, the defendant has served at least thirty (30) full calendar years of the sentence. Prohibits the district attorney, or any child transferred to an adult facility, from seeking or receiving a sentence of death for the offense for which the child was transferred. A child transferred to an adult facility who receives a sentence of imprisonment for life for first degree murder shall not be eligible for parole consideration until the defendant has served at least thirty (30) full calendar years of the sentence. Allows release

eligibility for a defendant who receives a sentence of imprisonment for life for first degree murder that was committed when the defendant was less than eighteen (18) years of age to occur after service of sixty-five percent (65%) of sixty (60) years less sentence reduction credits earned and retained by the defendant. However, no sentence reduction credits shall operate to reduce below fifty percent (50%) the percentage of sentence imposed by the court the defendant must serve before becoming release eligible.

Additional Summary Clarification: Provides eligibility for parole for defendants who previously received a sentence of life without parole for an offense committed before age 18 will be eligible for parole after service of 65% of 60 years.

Changes in Current Law: Decisions of the United States Supreme Court dating back to 2005 have reshaped juvenile justice. In 2005, the Court prohibited the death penalty for juveniles (*Roper v. Simmons*). In 2010, the Court prohibited the sentence of life without parole for juveniles convicted of non-homicide offenses (*Graham v. Florida*). In 2012, the Court prohibited the mandatory sentence of life without parole for juveniles, even if the juvenile is convicted of homicide (*Miller v. Alabama*). In 2016, the Court held *Miller* applies retroactively and juveniles sentenced to life without parole prior to *Miller* must be given an opportunity to argue that they should be released from prison.

The Court relied on behavioral and brain research to affirm youth are not as mature as adults. Therefore, youth are not as culpable as adults in the commission of delinquent/criminal offenses. Additionally, the Court used the same body of research to affirm youth are more likely to change over time. *Juvenile Sentencing in a Developmental Framework: The Role of the Courts (Models for Change)*. This legislation would establish a procedure for Tennessee to come into compliance with these U.S. Supreme Court rulings. This could avoid potentially lengthy litigation to determine how these rulings would be implemented in Tennessee.

TCCY Legislative Guidance: SUPPORT: TCCY supports legislation to clarify parole eligibility for juries in the sentencing process, and to prohibit life without parole for offenses committed prior to age 18. However, TCCY strongly prefers SB 197/HB 294. Brain research confirms the development of the human brain, especially the frontal cortex, the part that controls executive functions such as judgment, self-regulation and impulse control, is not completed until around age 23 to 25. This legislation only applies to first degree murder and life without parole provisions. SB 197/HB 294 includes other circumstances and identifies the factors that result in youth making bad decisions that lead to such a conviction, including adverse childhood experiences, and provides for their consideration in the initial sentencing. It also identifies the factors of progress that might warrant release by the parole board. It also has shorter time lines for parole eligibility. TCCY supports prohibition of life without parole for offenses committed prior to age 18. As a result of the U.S. Supreme Court Rulings, Tennessee needs legislation like this to specify the procedure for the state to comply and provide a second chance for those who have earned it.

SJR 109

TLS Bill Summary: Urges law enforcement, school officials to work together to address truancy. Urges law enforcement, school officials, the judiciary, community leaders, and the business community to work together to address truancy.

Additional Summary Clarification: The Resolution includes a number of “WHEREAS” clauses documenting the problems resulting from truancy. It also acknowledges the significant harm of chronic truancy and the work being done by truancy prevention programs.

Changes in Current Law: A Resolution has little impact on law; this one urges the specified groups to work together to address truancy.

TCCY Legislative Guidance: SUPPORT: As documented in the Resolution, truancy, and especially chronic truancy is a significant problem in Tennessee. Chronic truancy adversely impacts learning and success in school and in life. Truancy is not a problem that can be resolved by schools alone, and it is not a problem that should be primarily addressed by law enforcement and courts. Collaborative community efforts are needed to prevent truancy and mitigate the damage it causes. Many times, Adverse Childhood Experiences are contributing factors to truancy. Truancy should be viewed and addressed through a trauma- and ACEs-informed lens with efforts to prevent Adverse Childhood Experiences, avoid subsequent trauma in the way truancy is addressed, mitigate the impact of ACEs.

SB 4 (Gresham)/HB 357 (Dunn)

TLS Bill Summary: Board of education prohibited from adopting standards for character learning. Prohibits board of education from establishing standards or competencies regarding social or emotional learning in public schools.

Additional Summary Clarification: As introduced, prohibits the state board of education from adopting standards or competencies for social and emotional learning; prohibits the department of education from providing instruction or competencies in social and emotional learning to fulfill the requirements for character education. - Amends TCA Title 49, Chapter 1, Part 2; Title 49, Chapter 1, Part 3 and Section 49-6-1007.

Changes in Current Law: Prohibits any standards or competencies for social and emotional learning by the board of education and prohibits instruction or competencies in social and emotional learning as part of character education.

TCCY Legislative Guidance: OPPOSE: Current research indicates social and emotional and cognitive learning are intertwined much like the strands in a rope, and weakening any one of these weakens all three. Research regarding social and emotional learning suggests that social and emotional competence instruction in schools enhances students’ cognitive, emotional, and social skills. Research also suggests social and emotional competence learning in schools can improve attitudes towards school, decrease rates of violence and disciplinary referrals, and improve academic performance. Removing social and emotional competency learning in schools would lead students to encounter emotional, academic, and social difficulties in both the short

and long term.

The Collaborative for Academic, Social, and Emotional Learning explains social and emotional learning as self-awareness, self-management, social awareness, relationship, and decision-making skills. These skills provide a foundation for healthy development and academic performance, and support development of effective executive function – the soft skills sought by business.

In 2009, the Institute of Medicine reported that competence, self-esteem, mastery, and social inclusion can be the foundation for treatment and prevention of mental, emotional, and behavioral disorders. In addition, the Report of the Surgeon General's Conference on Children's Mental Health also released a similar statement that social and emotional competence learning is ideal for healthy development and school performance.

Children gain social and emotional competence from a variety of sources: parents, peers, teachers, coaches, and so on. However, not all these sources are of the same quality. Research suggests that having social and emotional learning taught in schools can help those children who may not be receiving social and emotional learning from other sources.

The Association for Supervision and Curriculum Development maintains that public education holds a responsibility to graduate students who are not only proficient in academics, but also exhibit responsible and respectful behavior.

SB 196 (Overbey)/HB0 483 (Forgety)

TLS Bill Summary: Establishes a progressive truancy intervention program in K–12.

State Summary - As introduced, establishes a progressive truancy intervention program in K–12 schools that involves tiers of prejuvenile court programs designed to keep a truant child out of the juvenile court system.

Impact of Changes in Current Law: This legislation would reduce involvement of youth with juvenile court for truancy. It would require schools to clearly communicate attendance expectations at the start of the school year. If a student is truant, the school would begin progressive truancy intervention with a conference involving the school officials and the parent. Progressive truancy interventions would be designed to address student conduct related to truancy in the school setting and minimize the need for referral to juvenile court. Progressive truancy intervention would involve an assessment to identify challenges related to truancy and provide counseling, referral to community-based services, school-based community services, school-based teen court or other alternatives to address the truancy. The legislation requires the use of progressive-truancy intervention prior to involvement with juvenile court.

TCCY LEGISLATIVE GUIDANCE: SUPPORT – TCCY supports progressive truancy interventions that keep children in school and avoid juvenile court involvement. Attendance at school is critically important for success in school, but efforts to ensure attendance should focus on identification of underlying issues contributing to absences and addressing them. Research indicates it is preferable to keep children out of the juvenile court system whenever possible.

Strategies to reduce the school-to-prison pipeline improve outcomes for youth and avoid the potentially life-long stigma of justice system involvement. They contribute to long-term community safety by improving the possibilities for success in school and reducing involvement with the justice system.

SB 458 (Bell)/HB 448 (Forgety)

TLS Bill Summary: Schools to maintain an opioid antagonist in secure, unlocked location.

Requires the state board of education, in consultation with the department of health, to develop guidelines for the management of students presenting with a drug overdose for which administration of an opioid antagonist may be appropriate. Authorizes each school within an LEA and each nonpublic school to maintain an opioid antagonist at the school in at least two unlocked, secure locations, including, but not limited to, the school office and the school cafeteria, so that an opioid antagonist may be administered to any student believed to be having a drug overdose.

Additional Summary Clarification: Provides if a student is injured or harmed due to the administration of an opioid antagonist, neither the physician who prescribed it to the school nor a school nurse, school resource officer or other trained school personnel shall be held liable unless there was intentional disregard for safety.

Changes in Current Law: Current law does not require or authorize schools to maintain an opioid antagonist or trained school personnel to administer an opioid antagonist, and does not provide liability from administering an opioid antagonist if it is not done with an intentional disregard for safety.

TCCY Legislative Guidance: SUPPORT: Tennessee is experiencing a severe opioid addiction crisis. More people in the state die of drug overdoses than motor vehicle accidents. Ready availability of an opioid antagonist has already saved a substantial number of lives in Tennessee. Unfortunately, drug overdose candidates are not limited to adults. Ready availability of an opioid antagonist in Tennessee schools for rapid administration by trained personnel has the potential to save lives. TCCY supports this common sense strategy to prevent needless deaths from the state's opioid epidemic.

SB 534 (Southerland)/HB 503 (Hawk)

TLS Bill Summary: Increases the number of BEP funded full-time public school nurse positions. Increases the number of BEP funded full-time public school nurse positions from one for every 3,000 students to one for every 750 students. Increases the number of full-time public school nurses considered sufficient for the public school nurse program to adequately provide services from one nurse for every 3,000 students to one nurse for every 750 students.

Changes in Current Law: This legislation would increase the number of school nurses available to serve students.

TCCY Legislative Guidance: SUPPORT: TCCY has long been a supporter of the state's

Coordinated School Health and school nurse program. As students are faced with more medical and related needs, the availability of additional school nurses is an important strategy to meet those needs. School nurses are especially beneficial in addressing the medical needs of children who have diabetes or have substantial medical disabilities. Children who have experienced Adverse Childhood Experiences often benefit from the availability of additional supportive personnel in the school setting to provide a safe, stable, nurturing environment. School nurses can help meet that need.

SB 598 (Haile)/HB 388 (Brooks, K.)

TLS Bill Summary: Immunizations for school children. Requires that both LEAs and nonpublic schools provide parents and guardians with information on the influenza disease and the effectiveness of the vaccination at the beginning of every school year.

Additional Summary Clarification: The proposed legislation does not require a public or nonpublic school to provide or purchase vaccine against influenza.

Changes in Current Law: There is no current law requiring public and nonpublic schools to advise parents about influenza and the effectiveness of influenza vaccinations.

TCCY Legislative Guidance: SUPPORT: Influenza is a serious illness that can cause death. It can result in students missing a substantial number of days of school and hinder their academic progress. When students who are contagious with influenza attend school, it can result in spreading the disease to other students, teachers and other staff. Influenza is a highly contagious, air-borne illness. Many school systems in Tennessee have been closed for days at a time this winter due to high incidence of influenza in the schools. TCCY supports legislation that ensures parents are aware of the causes, symptoms and means by which influenza is spread and the effectiveness and availability of vaccinations that could prevent their children from contracting this disease.

SB 614 (Watson)/HB 695 (Curcio)

TLS Bill Summary: Teacher training programs to partner with stakeholders in neurological or brain science research. Encourages teacher training programs to partner with stakeholders in neurological or brain science research to provide educators with knowledge of cognitive development and how emerging research in the brain sciences can inform educational practices and policies.

Additional Summary Clarification: Focuses on emerging brain science research regarding specific issues including language affect on overall cognitive development; sleep cycles and the teenage brain and school times; biological and social factors and math anxiety; learning disabilities and science and visual processing; and whether improvements in standardized test scores correlate with improved cognitive skills.

Changes in Current Law: Current law already authorizes teacher training programs at public institutions of higher education and encourages them to offer coursework on neurological or

brain science research. This legislation adds some specific questions for consideration regarding their impact on practices and policies.

TCCY Legislative Guidance: SUPPORT: Improvements in brain science make clear the importance of evidence-based strategies in improving outcomes for children. Research around brain development and Adverse Childhood Experiences validates the importance of preventing and mitigating these experiences whenever possible, and of training others to respond appropriately to children who have experienced these adverse circumstances. The questions posed in this legislation are also important for improving school performance and providing more safe, stable, nurturing environments in schools. TCCY would recommend an amendment to this legislation to add the following question to the list included in the legislation: “How do Adverse Childhood Experiences impact behavior in school, and what strategies are most effective in improving outcomes?” Such an amendment would improve this legislation, and even without it, the legislation presents important issues to be addressed.

SB 635 (Gardenhire)/HB 660 (White)

TLS Bill Summary: Qualifications to receive in-state tuition. Authorizes each public institution’s governing body to determine qualifications for student’s eligibility for payment of in-state tuition and fees.

Changes in Current Law: This legislation would leave it to each institution to determine eligibility for payment of in-state tuition and fees, rather than having general provisions and exceptions for certain facilities included in the code.

TCCY Legislative Guidance: SUPPORT: TCCY supports legislation that gives the governing body of each public institution of higher education the authority to determine the qualifications that students must possess to be eligible for payment of in-state tuition and fees. This provides the opportunity for each institution to determine its own needs and the needs of the community it serves in terms of students who are permitted to pay in-state tuition. Authorizations for non-residents to pay in-state tuition are generally for students from counties in adjacent states to attend and pay in-state tuition. A requirement to change state law rather than permitting the governing body of the institution to make this decision is a cumbersome way to address what could be relatively rapidly changing circumstances. Authorizing students to pay in-state tuition strengthens their financial ability to go to college and develop the skills needed for the work force of the future. A better educated populace is essential for Tennessee’s economic prosperity.

SB 771 (Beavers)/HB 888 (Pody)

TLS Bill Summary: Use of restrooms and locker rooms at public schools. Requires students in public schools and public institutions of higher education to use restrooms and locker rooms that are assigned to persons of the same sex as that shown on the students' birth certificates.

Additional Summary Clarification: Requires public schools and public institutions of higher education to require students use the restroom and locker facilities that are assigned for use by persons of the same sex as the sex indicated on the student’s original birth certificate.

Changes in Current Law: Current law permits public school and public institutions of higher education to handle this matter using common sense approaches that work for both individuals and the public schools and institutions than such a prohibition in state law.

TCCY Legislative Guidance: OPPOSE: In their 2016 report titled *Shut Out: Restrictions on Bathroom and Locker Room Access for Transgender Youth in US Schools*, Human Rights Watch states “One of the most pressing concerns for transgender students is safety in bathrooms and locker rooms. Transgender individuals face high rates of verbal harassment and even physical assault in bathrooms. Because bathrooms and locker rooms are not monitored by teachers, students are often at heightened risk for bullying and harassment in these spaces. When schools require transgender girls to use the men’s room or force transgender boys to use the women’s room, they put them at risk of physical, verbal or sexual assault from other students or adults.” <https://www.hrw.org/report/2016/09/13/shut-out/restrictions-bathroom-and-locker-room-access-transgender-youth-us-schools>

Findings from the Gay Lesbian Straight Education Network (GLSEN) 2015 National School Climate Survey report that Tennessee schools were not safe for most lesbian, gay, bisexual, transgender, and queer (LGBTQ) secondary school students. In addition, many LGBTQ students in Tennessee did not have access to important school resources, such as having Gay-Straight Alliances or similar student clubs, and were not protected by comprehensive anti-bullying/harassment school policies. The majority of LGBTQ students in Tennessee regularly heard anti-LGBT remarks. Many also regularly heard school staff make homophobic remarks (28%) and negative remarks about someone’s gender expression (47%). In Tennessee, 1 in 5 LGBTQ students (22%), and half of transgender students (50%), were unable to use the school restroom that aligned with their gender. Additionally, about 1 in 5 LGBTQ students (21%), and half of transgender students (50%), were prevented from using their preferred name and gender pronouns in school. Discrimination against transgender people has resulted in a public health epidemic. The largest study found that 41 percent of transgender Americans attempt suicide at some point in their lives — compared to 1.6 percent of the general population. Young transgender Americans were even more likely to attempt to kill themselves, with some estimates putting the suicide attempt rate among transgender youth at 57 percent. <https://www.glsen.org/sites/default/files/Tennessee%20State%20Snapshot%20-%20NSCS.pdf>

According to the American Academy of Pediatrics (AAP), increasing burdens and barriers for youth who are lesbian, gay, bisexual or transgender (LGBT) can increase their risk of depression, substance abuse, dropping out of school, or suicide. They also state laws similar to this can also have unintentional consequences for children born with gender-related genetic disorders, children with disabilities who may need a different sex parent to help them in the restroom, and children who find themselves homeless due to lack of support for their gender identities.

The AAP further states “supportive and affirming communities, schools, friends and families can buffer all young people – especially LGBT youth – from these negative experiences and outcomes while simultaneously promoting positive health and well-being. We all have a fundamental responsibility to support and nurture children and adolescents to ensure that they can grow and develop into healthy adults.” <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAPOpposesLegislationAgainstTransgenderChildren.aspx>

The Supreme Court is scheduled to hear oral arguments on March 28, 2017 in the case of a transgender teenager from Virginia who sued his school board for the right to use the boys' bathroom. Gavin Grimm, now a senior at Gloucester High School, sued in 2015 after the board barred him from the boys' bathroom. His lawyers argue that the policy, which requires students to use bathrooms aligned with their biological sex, violates a federal law against sex discrimination in public schools. This case could shape how public schools across the country accommodate transgender students.

This legislation does not contribute to increased safety and wellbeing for youth in Tennessee schools.

SB 862 (Gresham)/HB 1125 (Parkinson)

TLS Bill Summary: Alternative programs for suspended and expelled students. Requires local boards of education, in consultation with the state board of education, to adopt a policy mandating attendance at an alternative school or alternative program upon suspension or expulsion from school.

Additional Summary Clarification: A violation of the rules of the alternative school may result in the student's removal from the alternative school for the duration of the original suspension or expulsion, but shall not constitute grounds for any extension of the original suspension or expulsion.

Changes in Current Law: Under current law, attendance in an alternative school is voluntary unless the local board of education adopts a policy mandating attendance in either instance. This legislation would require mandatory attendance. All other provisions are current law.

TCCY Legislative Guidance: SUPPORT: Attendance is critical for success in school, and academic success contributes substantially to success in life. TCCY supports legislation that keeps children in school, including alternative school, rather than students being excluded, often in circumstances of little or no supervision when parents are working.

SB 1014 (Gardenhire)/HB 863 (White)

TLS Bill Summary: Exempts certain students from payment of out-of-state tuition at state institutions of higher education. Exempts individuals from paying out-of-state tuition at institutions of higher learning if the individual attended high school for the two years immediately prior to graduation, graduated from a Tennessee high school, obtained a GED awarded by a state institution, or completed high school in a Tennessee home school program so long as they are also registered as an entering student at a state institution of higher learning.

Additional Summary Clarification: Authorizes the exemption at the discretion of the governing boards of public universities. Also includes a HiSET credential awarded by a state-approved institution and an entering student or enrolled at a state institution of higher education. Provides the out-of-state tuition exemption does not apply to international students and trainees who are nonimmigrants.

Changes in Current Law: This legislation would leave it to each institution to determine eligibility for payment of in-state tuition and fees for students in specified situations as described above.

TCCY Legislative Guidance: SUPPORT: TCCY supports legislation that gives the governing body of each public institution of higher education the authority to determine whether students who meet the criteria outlined in the legislation shall be exempt from paying out-of-state tuition. Young adults who meet these criteria are part of the fabric of the communities where they attended high school or obtained a GED or HiSET. Exempting these students from out-of-state tuition strengthens their financial ability to go to college and develop the skills needed for the work force of the future. A better educated populace is essential for Tennessee's economic prosperity.

SB 1115 (Kyle)/HB 832 (Jones)

Free feminine hygiene products in public high schools. Requires every LEA to provide free feminine products in all women's and girls bathrooms and locker rooms in any public high school building where instruction is provided.

Additional Summary Clarification: The bill requires all LEA's to provide feminine hygiene products at no charge in high school bathrooms and locker rooms for female students and staff.

Changes in Current Law: There are not any current provisions in the law requiring high schools to provide free feminine products.

TCCY Legislative Guidance: SUPPORT with Amendment. Lack of access and availability of feminine hygiene products plays a significant role in absenteeism for female students in Tennessee schools. This legislation should be amended to also apply to middle schools because the majority of girls in middle school also need feminine hygiene products. It should also be amended to require availability in schools by whatever mechanism works best in the school. The cost of feminine hygiene products can stretch family budgets, especially for struggling families. Unlike toilet paper, which is a requirement for all public restrooms, feminine hygiene products are equally as essential to health and sanitation, but they are not provided. With a child poverty rate of 26 percent, one in four girls in Tennessee lives in a family that is potentially unable to provide these essential products. TCCY supports efforts to eliminate barriers for girls to attend school. Making feminine hygiene products available in high schools and middle schools would be a cost effective method to reduce absenteeism and truancy, and help to ensure all students have the opportunity to be successful in school.

SB 1195 (Norris)/HB 308 (Hawk)

TLS Bill Summary: Education of students incarcerated in detention centers. Requires the state board of education to promulgate rules to ensure the education of students incarcerated in detention centers licensed by the department of children's services by the LEA in which the detention center is located. Part of Administration Package.

Additional Summary Clarification: Provides that the Department of Children's Services will ensure detention centers comply with rules promulgated by the state board of education for this purpose.

Changes in Current Law: Current law inadequately addresses the education of children in detention.

TCCY Legislative Guidance: SUPPORT: Children who are incarcerated in detention centers have a great need for educational services. Education can be key to their future success, and strategies are needed to ensure such services are provided. This legislation will help ensure the state dollars appropriated to support the education of children follow them when they are placed in detention. DCS is in the process of promulgating new detention center standards. While education is addressed, including requirements in state legislation signifies its importance.

SB 1394 (Tate)/HB 872 (Akbari)

TLS Bill Summary: Prohibits the suspension or expulsion of students in pre-kindergarten and kindergarten. Prohibits any student in pre-kindergarten through kindergarten (pre-K-K) to be suspended or expelled from school unless the student's behavior endangers the physical safety of other students or school personnel as determined by the director of schools. A student in pre-kindergarten through kindergarten (pre-K-K) whose behavior endangers the physical safety of other students or school personnel may be suspended for three (3) days or less. The student must be provided an opportunity for the student's anger, fear, or anxiety to subside and the student's teacher or principal or both have had a conversation with the student concerning the behavior and the underlying issues that may have precipitated the behavior before the student can be suspended or expelled. The principal must notify the parent of the student's suspension on the day the suspension occurs. Requires each LEA to adopt clear policies and procedures for addressing misbehavior of students in pre-kindergarten through kindergarten (pre-K-K) that creates a safe, supportive, and positive school climate and addresses misbehavior through interventions and consequences aimed at understanding and addressing the causes of the misbehavior. Allows the Tennessee state board of education to develop model policies and procedures to provide guidance to each LEA in adopting a policy. Requires each LEA to adopt its policies and procedures before the beginning of the 2018-2019 school year, and must inform parents of its policies and procedures concerning behavior management for students in pre-kindergarten through kindergarten (pre-K-K) at the beginning of each school year and must post its policies and procedures on its website.

Changes in Current Law: Children in pre-K and kindergarten are subject to the same provisions regarding suspension and expulsion as all other students, even though their level of social and emotional development and understanding of appropriate behavior may be limited. This bill would require specific policies and procedures designed to reduce suspension and expulsion from school for very young children.

TCCY Legislative Guidance: SUPPORT: In the 2013-14 school year, Tennessee public schools issued 1,539 suspensions to kindergarten students and 80 to pre-K students. While no pre-K students were expelled, 21 kindergarten children were. Just as with other age groups, these

suspensions show disparity in race, gender and special education status. When you combine these factors, groups with the greatest need are the ones most likely to be removed from the classroom through exclusionary discipline. About one in 14 black male kindergarten children were suspended. For black, male special education students, that rises to almost 1 in 10, a shocking number for any group of five-year-olds.

A joint policy statement by the US Department of Health and Human Services and the US Department of Education advised against exclusionary discipline for children this young, as research has shown it to be associated with negative outcomes in education and later in life:

Not only do these practices have the potential to hinder social-emotional and behavioral development, they also remove children from early learning environments and the corresponding cognitively enriching experiences that contribute to healthy development and academic success later in life. Expulsion and suspension practices may also delay or interfere with the process of identifying and addressing underlying issues, which may include disabilities or mental health issues.

Exclusionary discipline hits children with the greatest needs the hardest. A policy statement by the National Association for the Education of Young Children acknowledges this:

We know that young children thrive in the context of stable, supportive relationships with adults who love, teach, and care for them. Expulsions and suspensions in early childhood education both threaten the development of these positive relationships and are a result of the lack of positive relationships between educators, families and children. Expelling preschoolers is not an intervention. Rather, it disrupts the learning process, pushing a child out the door of one early care and education program, only for him or her to be enrolled somewhere else, continuing a negative cycle of revolving doors that increases inequality and hides the child and family from access to meaningful supports.

The pressures on teachers to suspend disruptive students in these early learning classrooms can come from a perceived lack of other options, inadequate staff to deal with children with above average developmental needs, and other parents who do not want disruptive children in the classroom with their children.

A policy that removes exclusionary discipline from a teacher's options except in cases where the child poses a danger to other students or school staff should be accompanied by training and adequate staffing and needs to ensure options exist for teachers that will preserve the learning environment for other children. A recent study conducted by researchers from Yale University in Connecticut showed that implementing early childhood mental health consultations for children that teachers identified as having the most disciplinary problems significantly improved problem behaviors compared to those same children that did not receive consultation.

Every child develops at his or her own pace, and each child has different areas of need. Research indicates social, emotional and cognitive development are intertwined like the strands of a rope.

As school reaches into younger ages, an opportunity presents itself to help children who are behind in social and emotional development before these behaviors develop into a negative spiral that threatens long-term educational, career and personal relationship success. Parents often do not know how to address the social and emotional developmental delays that accompany problem behavior in young children. Offering appropriate discipline and supports to these children and families will put these children on track for success.

SB 362 (Haile)/HB 1318 (Zachary)

TLS Bill Summary: Adoption – time frame for filing documents necessary to execute a surrender or parental consent. Allows a parent to complete documents and forms necessary to execute a surrender or parental consent prior to the birth of a child. Deems invalid a surrender or parental consent filed prior to a child's birth until after the birth of the child and the expiration of any applicable waiting period.

Changes in Current Law: Current law does not permit the execution of a surrender of a child for adoption before the birth of the child. This legislation would permit the execution of the surrender prior to birth, though it would not be valid until the expiration of the waiting period for revocation after the child's birth.

TCCY Legislative Guidance: COMMENT: There are potentially positives and negatives regarding the impact of this legislation. Like many things in life, it depends on the individual details. In some instances it could be in the best interests of the child, and in other circumstances it could result in undue influence and pressure on the expectant mother. There are also questions/concerns regarding paternity issues and surrender by the biological father when paternity is in question.

SB 431 (Gardenhire)/HB 559 (Carter)

TLS Bill Summary: Mandatory report of child sexual abuse – requirements. Requires the mandatory report of child sexual abuse to include the name, address, telephone number, and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report.

Additional Summary Clarification: This legislation was filed as a caption to facilitate the discussion among stakeholders regarding needed revisions in statutes regarding reports of child abuse or child sexual abuse.

Changes in Current Law: The intent of this legislation is to convene stakeholders to discuss needed changes in current mandatory reporting law as an outcome of the incident in Sevier County involving the basketball team from Ooltewah, Tennessee and to ensure adults can be held accountable for failing to comply with mandatory child abuse and child sexual abuse reporting.

TCCY Legislative Guidance: SUPPORT: TCCY supports efforts to clarify mandatory child abuse and child sexual abuse reporting so adults can be held accountable for failing to report. It

is critical that in the clarification process, mandatory reporting requirements for all adults are maintained. Everyone should be a mandatory reporter if they have reason to believe a child is being abused in any way. TCCY staff should be engaged in discussions to amend current law to achieve accountability while preserving mandatory reporting for all. Five types of child abuse and neglect (physical, sexual and emotional abuse, and physical and emotional neglect) are among the initial Adverse Childhood Experiences that lead to adverse impacts across the life span. The Centers for Disease Prevention and Control (CDC) conservatively estimated the lifetime costs for all new cases of child maltreatment in 2008 at \$124 billion in 2010 dollars for child and adult medical, child welfare, special education and criminal justice costs, and productivity losses.

SB 554 (Ketron)/HB 559 (Farmer)

TLS Bill Summary: Changes the standard for termination of parental rights. Changes standard for when a court may terminate parental rights to a child who was conceived as the result of the parent's rape of the mother from a criminal conviction to clear and convincing evidence that the rape occurred.

Changes in Current Law: Passage of this legislation would permit termination of parental rights for a child who was conceived as the result of rape based on clear and convincing evidence in juvenile court. Current law only permits such termination if there the rapist is convicted.

TCCY Legislative Guidance: SUPPORT: TCCY supports expanding the grounds for termination of parental rights in the case of a child who was conceived as the result of a rape to include when there is clear and convincing evidence the rape occurred by the juvenile court when considering a petition for termination.

In some instances of rape, either charges are not filed or prosecutions are unsuccessful due to the high burden of proof required in criminal cases, proof beyond a reasonable doubt. Such a burden of proof is appropriate in criminal matters. The inability to obtain a rape conviction in criminal court should not prohibit termination of parental rights in juvenile court if the party can prove the rape occurred by clear and convincing evidence. Clear and convincing evidence is the standard of proof for terminating parental rights. Clear and convincing evidence a child was conceived as a result of rape should also be sufficient for termination of parental rights in these cases.

SB 821 (Haile)/HB 1178 (Faison)

TLS Bill Summary: Adoption – surrender of child.

Additional Summary Clarification: Provides a surrender that is not made before a judge or chancellor shall be valid for use in adoptions in this state if the surrender was made in accordance with the laws of the state or territory in which the surrender was executed.

Changes in Current Law: Tennessee law requires surrender of a child for adoption take place before a judge or chancellor, so one in other states that permits surrenders in other circumstances are not valid in Tennessee for adoption purposes.

TCCY Legislative Guidance: SUPPORT: TCCY supports timely permanency for children and reasonable laws for adoption. If a surrender is valid according to the laws of another state or territory, it should be valid in Tennessee for use in adoptions. To require otherwise could adversely impact interstate adoptions and leave children without a permanent family.

SB 887 (Haile)/HB 862 (White)

TLS Bill Summary: Tennessee Zero to Five Initiative. Enacts the "Tennessee Zero to Five Initiative" to create five additional zero to five court programs throughout the state to be administered by the department of children's services. Requires the administrative office of the courts, in consultation with the department of children's services and the council of juvenile and family court judges, to determine the location of each program. Requires the administrative office of the courts to establish at least one program within each of the three grand divisions.

Additional Summary Clarification: The Zero to Five Initiative facilitates the implementation of new and the continuation of existing court programs in Tennessee focused on children ages 0-5. The goals of the programs include reducing the removal of young children by surrounding parents with support services, and reducing the incidences of dependency and neglect among young children. DCS, in consultation with the AOC and Department of Mental Health and Substance Abuse, shall administer the programs and report annually to legislative committees.

Changes in Current Law: There are no current statutory provisions for courts focused on young children in Tennessee. Nationally, there has been a movement to establish what are referred to as Infant Courts, or Baby Courts, and one has been established in Metro Nashville with a grant from the FY 2017 Adverse Childhood Experiences Innovation Funds. This legislation would specifically authorize these courts, expand their availability, and establish requirements for standards of operation and reporting.

TCCY Legislative Guidance: SUPPORT: TCCY supports this legislation to expand Infant Courts in Tennessee. The results of these programs in other states has been positive in emphasizing the need for comprehensive and timely service provision to support parents and result in speedy reunification of parents and young children, or determination such will not be possible and move to termination of parental rights. Brain research is clear regarding the impact of Adverse Childhood Experiences (ACEs) on the developing brain, especially of very young children. Appropriate two generation strategies, like Infant Courts, can be instrumental in both preventing ACEs and mitigating their impact. The Association of Infant Mental Health in Tennessee (AIMHiTN) is the applicant for the Infant Court at Metro Nashville Juvenile Court and has been an advocate for this approach for a number of years. Expanding the availability of evidence-based Infant Courts has the potential to improve the outcomes for the children and families served by these courts.

SB 1252 (Norris)/HB 840 (DeBerry)

TLS Bill Summary: Termination of parental rights hearing.

Additional Summary Clarification: This legislation clarifies that evidence admitted in termination of parental rights cases is subject to the Tennessee Rules of Evidence. It deletes a reference to admission of evidence based on the Rules of Juvenile Procedure, because the revision of the rules in 2016 deferred to the Rules of Evidence and did not include rules relative to admission of evidence. The legislation also deletes current law regarding the contents of a juvenile petition and substitutes the language of this bill specifying what shall be included in a petition alleging delinquent or unruly offenses, educational neglect, and several other categories. It also corrects two references in Title 37 to other sections.

Changes in Current Law: This legislation is the work of the Administrative Office of the Courts Court Improvement Committee to correct references as a result of 2016 revisions in the Rules of Juvenile Procedure and related code changes, and to clarify the requirements for petitions.

TCCY Legislative Guidance: SUPPORT: TCCY supports this legislation to clarify requirements for petitions and correct references from 2016 changes in the statutes. Ongoing review and improvements in the juvenile code are required to ensure clarity and consistency between and among the statutes and the Rules of Juvenile Procedure.

SB 1147 (Hensley)/HB 1195 (Butt)

TLS Bill Summary: Reunification of parent and child in abuse cases. Prohibits DCS from instituting reunification proceedings between the parent or legal guardian and the child if law enforcement is investigating a parent or legal guardian in the instance of child abuse. Allows reunification proceedings to begin only when written approval is obtained by the district attorney, the investigation is closed by law enforcement, and it is determined by the court that the reunification is in the child's best interests.

Changes in Current Law: Currently there is no requirement for a law enforcement investigation to be closed or the approval of the district attorney general for a child to be returned by the Department of Children's Services, typically with the approval of a court of competent jurisdiction. This would add hurdles to the reunification process.

TCCY Legislative Guidance: OPPOSE: TCCY is committed to the best interests of children, and to protecting children from abuse and especially subsequent abuse. The Second Look Commission (SLC) currently reviews cases of children who have experienced second or subsequent incidents of severe abuse and makes recommendations to improve the state's system of child maltreatment. After reviewing cases for six years, the SLC has made a number of recommendations to improve the system based on the facts observed in cases reviewed. Those have never included requirements for law enforcement investigations to be closed or written approval from the district attorney before a child can be returned to parents or legal guardians. Implementation of these requirements would needlessly delay reunification in appropriate cases,

resulting in unnecessary costs to the state, and unnecessary prolonged trauma for children and families due to the separation.

SB 68 (Bell)/HB 224 (Faison)

TLS Bill Summary: Sunset- department of children's services. Extends the department of children's services to June 30, 2021. Requires the department to report back to the government operations committee on the department's response to the findings in the performance audit report by December 31, 2017.

Additional Summary Clarification: The Department of Children's Services is responsible for investigating allegations of child abuse and neglect, caring for dependent and neglected children placed in the custody of the State, adoption services, extension of foster care services for youth transitioning out of state custody, and the supervision of children adjudicated delinquent by juvenile court.

Changes in Current Law: Continues the Department of Children's Services for a three-year period.

TCCY Legislative Guidance: SUPPORT: TCCY supports the continuation of the Department of Children's Services for four years until June 30, 2021, and supports DCS in its role in serving abused, dependent and neglected children and their families and children involved with the juvenile justice system and their families. Since the last sunset reauthorization the Department has met its obligations under the Brian A. Agreement, has worked to improve death investigations, reduced the growth in the number of children coming into foster care, and decreased the number of children placed in the state's Youth Development Centers. TCCY works closely with the Department to improve policy and practice through its Second Look Commission, Youth Transitions Advisory Council, and the Adverse Childhood Experiences Initiative.

SB 72 (Bell)/HB 250 (Faison)

TLS Bill Summary: Sunset- department of mental health and substance abuse services. Extends the department of mental health and substance abuse services four years to June 30, 2021.

Additional Summary Clarification: The Department of Mental Health and Substance Abuse Services (TDMHSAS) is responsible for providing psychiatric inpatient services for adults including forensic psychiatric services for adults and youth and for providing education, prevention and treatment services for mental health and substance abuse. TDMHSAS administers the Federal Mental Health Block Grant, and its funds support some of the mental health services for children in Tennessee. TDMHSAS also administers Federal Substance Abuse and Mental Health Services grants to support implementation of a system of care for children's mental health in Tennessee.

Changes in Current Law: Continues the Department of Mental Health and Substance Abuse Services for a four-year period.

TCCY Legislative Guidance SUPPORT: TCCY supports the continuation of the Department of Mental Health and Substance Abuse Services and its role in serving adults and children and youth with mental health and substance abuse treatment needs and providing education and preventive services for children and youth. TCCY also supports continuation of TDMHSAS as vital partner for the Council on Children’s Mental Health where the Commissioner serves as Co-Chair. TDMHSAS is an important partner in achieving the CCMH mission of creating a statewide system of mental health care for children and their families. TCCY’s partnership with TDMHSAS is expanded with the implementation of the federally funded Systems of Care Across Tennessee (SOCAT) grant to help develop teams in every county to meet the needs of children who have a serious emotional disturbance diagnosis and their families.

SB 84 (Bell)/HB 218 (Faison)

TLS Bill Summary: Extends the second look commission four years to June 30, 2021.

Extends the second look commission four years to June 30, 2021

Changes in Current Law: The Second Look Commission is due to expire on June 30, 2017. This bill simply extends the commission to June 30, 2021.

TCCY Legislative Guidance: SUPPORT – The future prosperity of any society depends on its ability to foster the health and well-being of the next generation. When a society invests wisely in children and families, the next generation will pay that back through a lifetime of productivity and responsible citizenship. The basic architecture of the human brain is constructed through an ongoing process that begins before birth and continues into adulthood. Like the construction of a home, the building process begins with laying the foundation, framing the rooms and wiring the electrical system in a predictable sequence. Early experiences literally shape how the brain gets built; a strong foundation in the early years increases the probability of positive outcomes. A weak foundation increases the odds of later difficulties. Chronic stressful conditions, such as extreme poverty, child abuse or maternal depression, what scientists now call “toxic stress,” can also disrupt the architecture of the developing brain. This can lead to lifelong difficulties in learning, memory and self-regulation.

Preventing child abuse and intervening effectively when it first occurs are keys to avoiding lifelong negative consequences from child abuse. Cases reviewed by the Second Look Commission (SLC) make it abundantly clear that there are holes in the systems responding to child maltreatment in Tennessee. As a state, we can and we must identify and implement strategies to prevent severe child abuse and ensure children who experience severe abuse receive the protection and remediation assistance they deserve. The issues regarding severe child abuse cannot be adequately addressed by DCS, TCCY, Child Advocacy Centers, law enforcement or any one organization, or community agency or individual. All stakeholders must come together to address this societal problem in a coordinated and concerted manner.

The SLC was created in 2010 by Public Chapter 1060 (codified as TCA §37-3-801 *et seq.*) as a

unique entity with a single purpose: to make findings and recommendations regarding whether severe abuse cases are handled in a manner that provides adequate protection for the children of Tennessee. The SLC brings together representatives of all key stakeholders in the child protection system in Tennessee: members of the General Assembly, Department of Children's Services (DCS), law enforcement (including the Tennessee Bureau of Investigation and officers from urban and rural areas), district attorneys general, public defenders, courts, child advocacy centers, a physician who specializes in child abuse detection, an attorney with recognized expertise representing children in child abuse and neglect proceedings and other children's advocates. The SLC is the only vehicle for representatives of these key groups to meet and review cases of children from across the state who have experienced a second or subsequent incidence of severe abuse to identify ways to improve the system and help other children avoid a similar fate. Special, concentrated efforts must be devoted to analyzing and responding to the tragedy of child abuse.

Through its coordinated and concerted efforts and its findings and recommendations, the SLC has helped to improve child protection in Tennessee.

- The SLC contributes to increasing the accountability and transparency of the all the child abuse prevention stakeholders.
- From the beginning of the SLC, the core of many of the recommendations has involved strengthening relationships, interactions and investigations of stakeholders, and improving communication and collaboration, and has contributed to improvements in these areas.
- The SLC has emphasized the need for DCS to conduct issue-driven investigations as opposed to incident-driven investigations, and while there are still opportunities for improvement, DCS has made strides in this arena.
- In part based on recommendations from the SLC, DCS created the CPS Investigator Training Academy (Academy) in 2013 to address SLC findings and recommendations. The Academy includes the following courses that help address SLC findings and recommendations:
 - Medical Evaluation of Child Sexual Abuse;
 - Medical Evaluation of Child Abuse and Neglect;
 - John E. Reid Child Abuse Investigations;
 - John E. Reid Physical Neglect and Child Abuse Reconstruction Techniques;
 - John E. Reid Emerging Trends in Child Sex Abuse;
 - Drug Identification;
 - Recognizing and Documenting Impairment/Drug Use;
 - Meth, Meth Labs and Drug Trucks;
 - CPS Investigations Policy and Effective Use of Work Aids;
 - Juvenile Court Systems;
 - Case Presentation; and
 - Case File Documentation.
- In the 2012 SLC Annual Report, the SLC also recommended creating a Statewide Child Protective Investigation Teams (CPIT) Coordinator and a CPIT Advisory Board. In 2013, DCS appointed a Director of Community Partnerships within the Office of Child Safety. The Director serves as the Statewide CPIT Coordinator. DCS also developed a statewide CPIT Advisory Board. The Statewide CPIT Advisory Board developed by

DCS in response to the recommendation by the SLC recently developed a Data and Practice Analysis Workgroup which has been tasked with reviewing the recommendations contained in SLC reports, in addition to other reports that contain recommendations for DCS.

- The 2011 SLC Annual Report noted the terms used by DCS in its policies to classify the results of their investigations are not consistent with the classifications set forth in TCA §37-1-607 (“indicated” and “unfounded” vs. “substantiated” and “unsubstantiated”). DCS made significant terminology changes in efforts to align language with state law and nationally recognized and accepted language used by other child welfare agencies, law enforcement, disability and adult protective services. The term “substantiated” replaced the term “indicated” and the term “unsubstantiated” replaced the term “unfounded.” The change was effective January 1, 2014.
- The Director of the SLC is also included in a group of stakeholders who receive notice and opportunity to have input on DCS administrative policy and procedure changes, and as appropriate provides suggestions for changes based on SLC recommendations.

TCCY supports legislation that helps identify and implement strategies to protect children from severe child abuse and assist with remediation assistance for those who experience severe child abuse. The SLC has identified strategies to protect children from severe child abuse and identified needed areas of assistance for those children who have experienced severe child abuse. However, identifying strategies and areas of assistance are just the beginning of improving how severe child abuse cases are handled. The SLC continues to work on implementing and monitoring strategies identified by the SLC. TCCY supports the continuation of the SLC and its ongoing work.

SB 95 (Bell)/HB 215 (Faison)

TLS Bill Summary: Sunset - statewide planning and policy council for the department of intellectual and developmental disabilities. Extends the statewide planning and policy council for the department of intellectual and developmental disabilities to June 30, 2022.

Additional Summary Clarification: The Policy and Planning Council of the Tennessee Department of Intellectual and Developmental Disabilities is responsible for providing input and advice to the department around planning and policy development, the administration of programs and management of facilities. The Council makes recommendations to the Governor and General Assembly on the level and direction of appropriations and services and advocates for the needs for individuals with intellectual and developmental disabilities.

Changes in Current Law: Continues the statewide planning and policy council for the department of intellectual and developmental disabilities for five years.

TCCY Legislative Guidance: SUPPORT: TCCY supports the continuation of the Planning and Policy Council of the Department of Intellectual and Developmental Disabilities and its role in providing input and advice to the department around planning and policy development to meet the needs of those individuals with intellectual and developmental disabilities. TCCY participates as a member of the Tennessee Council on Developmental Disabilities and 2017

legislation, if enacted, would create the Tennessee Autism Spectrum Council and amendatory language has been approved in the Senate to include TCCY as a member of this Council.

SB 96 (Bell)/HB 249 (Faison)

TLS Bill Summary: Sunset - statewide planning and policy council for the department of mental health and substance abuse services. Extends the statewide planning and policy council for the department of mental health and substance abuse services to June 30, 2021.

Additional Summary Clarification: The Policy and Planning Council of the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) is responsible for providing input and advice to the department around planning and policy development related to the Federal Mental Health Block Grant, Substance Abuse Services Block Grant and the department's Three-year Plan.

Changes in Current Law: Continues the statewide policy and planning council of the Department of Mental Health and Substance Abuse Services for a four-year period.

TCCY Legislative Guidance: SUPPORT: TCCY supports the continuation of the Policy and Planning Council of the Department of Mental Health and Substance Abuse Services and its role in providing input and advice to the department around planning and policy development as related to the Federal Mental Health Block Grant, Substance Abuse Services Block Grant and the department's Three-year Plan. The council provides statewide and regional forums for input from consumers, providers, advocates and other stakeholders. TCCY supports collaborative planning efforts eliciting input and guidance from TDMHSAS stakeholders, and TCCY staff serve on the state Council and some of the local councils.

SB 199 (Overby)/HB 384 (Ryan)

TLS Bill Summary: Tennessee Council on Autism Spectrum Disorder. Terminates the autism spectrum disorder taskforce and creates the Tennessee council on autism spectrum disorder. The council shall consist of the commissioner of intellectual and developmental disabilities or the commissioner's designee, the commissioner of health or the commissioner's designee, the commissioner of education or the commissioner's designee, the commissioner of human services or the commissioner's designee, the commissioner of commerce and insurance or the commissioner's designee, the deputy commissioner of the bureau of TennCare or the deputy commissioner's designee, the commissioner of mental health and substance abuse services or the commissioner's designee, one representative of the council on developmental disabilities, and six adults who have a diagnosis of autism spectrum disorder or who are either family members or primary caregivers of persons with a diagnosis of autism spectrum disorder. Two of the adult members shall represent each grand division of the state, and these persons shall be appointed by the governor. Persons appointed from the western grand division shall serve until June 30, 2019. Persons appointed from the middle grand division shall serve until June 30, 2020. Persons appointed from the eastern grand division shall serve until June 30, 2021. No member of the council can serve more than two consecutive three-year terms. The council shall meet quarterly and may meet more often upon a call of the chair, who is appointed by the governor. No council

member shall receive compensation or reimbursement for actual travel and other expenses incurred in attending any meeting or performing any duties. Provides additional guidelines on the duties of the council.

Additional Summary Clarification: An amendment has been added to the bill in the Senate to add a representative of the Commission on Children and Youth to the Tennessee Council on Autism Spectrum Disorder.

Changes in Current Law: There is currently not an ongoing Council on Autism Spectrum Disorder.

TCCY Legislative Guidance: SUPPORT: TCCY supports the creation of the Tennessee Council on Autism Spectrum Disorder (ASD). Autism Spectrum Disorder is a serious neurodevelopmental disorder that impairs a child's ability to communicate and interact with others. It also includes restricted repetitive behaviors, interests and activities. These issues cause significant impairment in social, occupational and other areas of functioning. ASD occurs in every racial and ethnic group, and across all socioeconomic levels. However, boys are substantially more likely to develop ASD than girls. The latest analysis from the Centers for Disease Control and Prevention estimates that one in 68 children has ASD. The prevalence of ASD demands a focus on this condition and the creation of a council in Tennessee is an important step in identifying and disseminating information about ASD and effective strategies for serving children and families. TCCY also appreciates the amendment adding a representative of the agency to the Council.

SB 0449 (Bell)/HB 0566 (Howell)

TLS Bill Summary: Guides to practice for administrative agencies. Requires state government entities that establish or adopt guides to practice do so through the promulgation of rules. Specifies that guides to practice include codes of ethics, voluntary certification programs, and metrics for minimum qualities of service.

Additional Summary Clarification: The bill prohibits any profession affected by this legislation from adopting guides to practice developed or approved by any private organization or association unless adopted in accordance with the chapter created by the bill. This gives the legislature final approval of every code of ethics of every profession regulated by a state board because rules must be approved by the General Assembly.

Impact of Changes in Current Law: Currently, most professions regulated by a state board adopt the associated national organization's code of ethics as the Tennessee code of ethics.

TCCY LEGISLATIVE GUIDANCE: OPPOSE: A code of ethics developed and vetted by members of each profession reflects experience in and dedication to the highest standards of care ensuring the most beneficial and applicable ethical principles. National professional organizations typically develop guides to practice and ethical codes of conduct for members of that profession. These national guidelines are then consistent from state to state. Requiring each profession in Tennessee to develop guides to practice would be an unnecessary duplication of work that has already been done at the national level and has long served as an effective

mechanism for professionalism and ethical conduct in licensed professions. Moving from established national codes of ethics could open both consumers and professionals to unnecessary harm, vulnerability and liability. Eliminating consistency with national standards could adversely impact individuals in these licensed professions, and also affect healthcare facility accreditation, insurance reimbursement, access to health care resources, educational opportunities and consistency of services for Tennesseans. A majority of legislators who would be required to approve state-generated rules would not have the requisite training in the affected disciplines to know whether proposed guides to practice are high quality. National professional organizations are typically committed to high ethical standards and best practices. Creation of Tennessee-specific guides to practice could result in professionals who are trained at universities in Tennessee and practice in their professions in Tennessee having substantial challenges in becoming licensed in other states that comply with national professional standards and require such for members of licensed professions there. This legislation could discourage the pursuit of needed professionals in Tennessee, for example child psychiatrists, and impede the Drive to 55 efforts because students and professionals are concerned about the perception of degrees or professional practice in the state being devalued and adversely impacting future opportunities in other states. This legislation could adversely impact Tennessee economically in terms of both professionals and their practice, and in terms of loss of business, conventions, etc.

SB 883 (Harris)/HB 1320 (Stewart)

TLS Bill Summary: Long Acting Birth Control Information Act. Establishes program that includes training, assistance, financial support, education and outreach regarding LARCs for family planning centers and public health facilities as well as a study on making as many contraceptives possible available.

Additional Summary Clarification: Defines family planning centers and long-acting reversible contraceptives. Requires the Department of Health to promulgate rules to implement a program to improve access to long-acting reversible contraceptives for women. Requires training, including non-coercive counseling strategies, financial support to provide same-day access by patients, education and outreach to the public.

Changes in Current Law: The Department of Health and TennCare have both taken some steps to make long-acting reversible contraceptives (LARCs) more readily available in Tennessee. This legislation would substantially move that process along to improve access to LARCs for more Tennessee women.

TCCY Legislative Guidance: SUPPORT: Data indicate half of all pregnancies in the United States each year are unintended, and more than half of all births in Tennessee are paid for by TennCare. For the past two years, TCCY has recommended efforts to reduce unplanned pregnancies, which, like nationally, constitute half of all pregnancies in Tennessee. Colorado and South Carolina have both shown improvements reducing unplanned pregnancies through the use of voluntary long acting reversible contraceptives (LARC). Voluntary long acting reversible contraceptives are not a new idea; many psychiatrists treating mentally ill women with psychotropic medications that are known to cause birth defects and abnormalities have used them to prevent pregnancies in their patients. Long acting reversible contraceptives are also recommended for adolescents and young adult women who are addicted to drugs or abusing

alcohol.

Programs focusing on providing voluntary long acting reversible contraceptives have resulted in reduced teen births and reduced teen abortions, and reduced unplanned second or subsequent births. By reducing unplanned or unwanted pregnancies, young women are able to complete their education, participate in treatment for addiction, if needed, and wait to start their families until they are better prepared to provide for their children's needs. A Step Ahead program that originated in Memphis and has spread to some other areas across the state is an important vehicle for accessing LARCs for women who are uninsured or cannot afford them. High upfront costs, lack of adequate training for healthcare professionals, administrative barriers, and insufficient information and education have made LARCs more difficult to access than other forms of birth control that are less effective. This legislation would increase the ready availability of LARCs and thereby better protect the health, safety and welfare of women and families.

SB 41 (Sutherland)/HB 3 (Goins)

TLS Bill Summary: Licensed clinical social workers exempt from subpoena to trial. Makes licensed clinical social workers exempt from subpoena to trial but subject to subpoena to a deposition.

Additional Summary Clarification: Adds licensed clinical social workers to the list of professionals who are exempt from being subpoenaed to trial, but subject to subpoena for a deposition.

Changes in Current Law: Current law exempts the following from subpoena to trial, but subject to subpoena for a deposition: a practicing physician, physician assistant, advanced practice registered nurse, psychologist, senior psychological examiner, chiropractor, dentist or attorney. It adds licensed clinical worker between "psychologist" and "senior psychological examiner."

TCCY Legislative Guidance: SUPPORT with Amendment: TCCY recognizes the considerable amount of time a licensed clinical social worker might be required to spend waiting for trial, and the accompanying loss of income-generating time during the wait. However, TCCY believes the bill should be amended to provide an exception for exemption from subpoena to trial for a licensed clinical social worker in a child welfare case in juvenile court. These are cases involving extremely vulnerable children and families where there have been allegations of abuse or neglect. It is common for judges to question the licensed clinical social worker when testifying, and such an opportunity would not be available in a deposition. The safety of children in the child welfare system, and the opportunity for reunification with their family when appropriate often depends on the testimony of a licensed clinical social worker, including not just the words that might be expressed in a deposition, but also the demeanor and depth of conviction conveyed in person that cannot adequately be conveyed in writing.

SR 15 (Kelsey)/HR 18 (Lamberth)

TLS Bill Summary: Ratifies and approves Tennessee Rules of Juvenile Procedure. Ratifies and approves the amendments and revisions to the Tennessee Rules of Juvenile Procedure, as promulgated and adopted by the Tennessee Supreme Court.

Changes in Current Law: The legislation for approval of revisions of the Tennessee Rules of Juvenile Procedure are the outcome of work by the Administrative Office of the Courts Court Improvement Program to address “clean-up” provisions from the major rewrite of the Rules that was approved in 2016.

TCCY Legislative Guidance: SUPPORT: TCCY supports the improvement of laws and rules that impact children and families. TCCY staff members of the Court Improvement Project Law Committee and participated in a series of meetings over the past few years as the group worked to update the Tennessee Rules of Juvenile Procedure. These revisions are clarifications to the new rules that were ratified last year and have been approved by the Supreme Court. TCCY supports approval of the revised rules and the statutory changes crafted to be consistent with the revised rules.

SB 550 (Ketron)/HB 344 (Terry)

TLS Bill Summary: Minor victims of crime. Adds language that a victim of a criminal offense who is a minor shall not have their; name, home and work addresses, electronic mail, telephone numbers, social security number, any photographic or video depiction of the minor victim, open for inspection by members of the public. Authorizes the parents of the minor victim to petition a court of record to waive the confidentiality and allow the minor victim's name to be public record.

Additional Summary Clarification: TCA 10-7-504 specifies a lengthy list of confidential records and the bill would create “a new, appropriately designated subsection (t).” The statute has been amended annually since 1996.

Changes in Current Law: Adds the personal information, photographic or video image of a minor victim of a criminal offense to the list of information not available for public inspection as part of the state open records law. It also includes the name of minor’s parent unless it is an essential element to the offense. The bill allows parents to petition a court of record to waive the exception for good cause. Also allows information to be released if the minor victim’s information is redacted.

TCCY Legislative Guidance: SUPPORT: TCCY supports keeping minor victims’ names and personal information confidential and not available to the public. Being the victim of crime is already traumatic and can cause toxic stress. Children and adolescents who have been victims need to be supported by the community and not open to further victimization or bullying due to their information being made public by the media. Suicide is the second leading cause of death among children and young adults, ages 10 to 24. Social media victimization is increasingly a problem among children and young people and has been cited in a number of noted suicides in

Tennessee and across the country. Maintaining confidentiality for minor victims of crime provides a measure of protection for both children and families.

SB 752 (Beavers)/HB 892 (Pody)

TLS Bill Summary: Tennessee Natural Marriage Defense Act. States the policy of Tennessee to defend marriage between one man and one woman regardless of any court decision to the contrary.

Changes in Current Law: In the *Obergefell* decision in 2015, the United States Supreme Court ruled marriage could not be limited to a man and a woman and granted the right of same sex couples to marry.

SB 1153 (Hensley)/HB 1406 (Weaver)

TLS Bill Summary: Parental rights to children born via artificial insemination.

Changes in Current Law: Proposed legislation would delete TCA § 68-3-306 that states, children conceived through artificial insemination are considered legitimate children.

SB 30 (Bowling)/HB 33 (Ragan)

TLS Bill Summary: Defining of terms in the TCA relative to gender. Requires that the words "husband", "wife", "father" and "mother" be interpreted with their biological meaning as they appear in the TCA. Prevents the extension of the meaning of these words beyond a biological difference between men and women, except when a contrary intention is made clear.

Additional Summary Clarification: This legislation would specifically override current statutory construction that interprets male and female words as gender neutral.

TCCY Legislative Guidance: OPPOSE SB 752/HB 892, SB 1153/HB 1406 and SB 30/HB33:

In *Witt v. Witt*, a divorce action involving a same-sex couple, the court was called upon to determine whether the Defendant had parental rights to a child born to the Plaintiff as a result of artificial insemination by agreement of the parties. The court held the Defendant did not have any parental rights to the child. The court declined to apply Tenn. Code Ann. § 68-3-306 to this case. The Defendant filed a motion asserting the court's interpretation and non-application of Tenn. Code Ann. § 68-3-306 was unconstitutional. The Defendant served notice of her constitutional challenge on the Tennessee Attorney General. In response to the motion, the Attorney General filed a Memorandum of Law of the State of Tennessee in Defense of the Constitutionality of Tenn. Code Ann. § 68-3-306. The Memorandum concluded, "the Court should rule that Tenn. Code Ann. § 68-3-306 must be construed so as to apply to a child born as a result of artificial insemination during a same-sex marriage and that, as applied, the statute is constitutional."

Instead of repealing the statute, the statute should be amended to be consistent with the United States Supreme Court *Obergefell* decision. The Attorney General's Memorandum provides Tenn. Code Ann. § 68-3-306 must be construed to read as follows, "A child born to a married woman

as a result of artificial insemination, with consent of the married woman's spouse, is deemed to be the legitimate child of the two spouses." TCCY supports amending Tenn. Code Ann. § 68-3-306 to match the language provided by the Tennessee Attorney General.

When TCCY reviews legislation and develops guidance regarding their impact, it is especially vigilant in identifying both the intended and perhaps unintended impact of the proposed law. TCCY opposes legislation that has great potential to disrupt families. According to the Centers for Disease Control and Prevention, children need safe, stable, nurturing relationships and environments in order to thrive. This is critical to creating a strong foundation for development across the lifespan and preventing the development of disease, disability and social problems. Supporting families and the healthy development of children ensures a more prosperous community for all Tennesseans.

SB 1153/HB 1406 would delete the current code (TCA § 68-3-306) that states, children conceived through artificial insemination are considered legitimate children. The proposed bill would eliminate the affirmative declaration that children who are conceived through artificial insemination with the consent of both parents are legitimate. Artificial insemination is a method of childbearing used by both heterosexual and same-sex couples. Changing the law would have an impact on children receiving child support and inheritance. It could also impact cases of wrongful death damages for the death of the parent who did not give birth to the child and government benefits, etc. (Maldonado, 2011).

One of the most significant harms for children and families is taking away the right to inheritance children would otherwise have. The United States is in the midst of the largest transfer of intergenerational wealth in the country's history (Javens & Schervish, 2003). Children who receive inheritance may use the money to start a business, buy a home, or invest in their education. Children who are deemed illegitimate do not have the same access to intergenerational wealth as their legitimate counterparts.

The bill also creates complications for families accessing medical care. Short of life-saving, emergency health care, only the parent can provide consent for his/her child to receive routine health care, including visits to a primary care doctor, dentist, etc., surgery, or the administration of psychotropic medication. Children may lose opportunities for health insurance coverage.

Finally, the stigma for children and families targets them for further social discrimination.

SB 30/HB 33 would require certain gender-specific words ("husband", "wife", "father" and "mother") in Tennessee statutes be given their "natural and ordinary meaning." The proposed bill would impact the current gender-neutral reading of statutes and jeopardizes protections for same-sex couples and their families. SB 752/HB 892 also eliminates protections for same-sex couples. The American Psychological Association reports not a single study has found children of lesbian or gay parents to be disadvantaged in any significant respect relative to children of heterosexual parents. Indeed, the evidence to date suggests home environments provided by lesbian and gay parents are as likely as those provided by heterosexual parents to support and enable children's psychosocial growth. The American Psychiatric Association reports children

raised in gay or lesbian households do not show any greater incidence of homosexuality or gender identity issues than other children.

Children living with two married adults (biological or adoptive parents) have, in general, better health, greater access to health care, and fewer emotional or behavioral problems than children living in other types of families (National Center for Health Statistics, 2001-2007).

Research shows that strengthening marriage is an effective method to lift children out of poverty (Amato & Maynard 2007). Married couples share expenses and are able to save for the future. Married couples typically have more economic resources or greater economic flexibility in the form of higher income; more assets or wealth; larger private or social assistance payments; better access to health insurance and child care; availability; access to goods and services; and opportunities to save and borrow “(Ribar 2015, p 13)

Research increasingly shows that family instability undermines parents’ investments in their children, affecting the children’s cognitive and social-emotional development in ways that constrain their life chances.² (McLanahan & Beck, 2010) Sara McLanahan and Audrey N. Beck, “Parental Relationships in Fragile Families,” *Future of Children* 20, no. 2 (2010): 17–37.

Children need loving, stable, secure, nurturing families. They need someone who loves them unconditionally throughout their lives. Loving, nurturing families are defined by the quality of the relationships of children and their parents, not by the gender of the parents. A substantial number of children in Tennessee live in families with two mothers or two fathers. These three bills would undermine the stability of their families and the opportunities for these children to live in homes with two married adults, regardless of gender, and all the benefits that go along with a two parent family.

Protect the General Fund with a Dedicated Revenue Stream for Highways

Decades ago elected leaders in Tennessee wisely chose a dedicated revenue stream through fuel taxes to fund an award winning highway system to meet the needs of a growing population and economy. Those fuel taxes have not been raised in many years. Greater automobile fuel efficiency and increased construction costs have eroded the value of the fuel tax. Population growth has increased traffic in metropolitan areas, small towns and rural counties and communities, exacerbating the state’s highway needs. Tennessee needs safe highways. Motor vehicle accidents are a leading cause of death for children, youth and young adults.

Wise leaders many years ago also dedicated the general fund to support the other needs of a growing state, basic public supports developed in our child welfare, education, health, human services, juvenile justice, mental health, disability and home and community-based services systems. These services and supports enable children to remain with their families, be healthy and supported in their homes and communities, succeed in school and become part of Tennessee’s economic engine of the future. They do this by improving health and education opportunities and helping to reduce child abuse and involvement with child welfare and juvenile justice systems, providing children with opportunities to thrive and become productive citizens.

Wise fiscal management allowed Tennessee to weather the worst of the Great Recession, by using dedicated fuel revenue to fund our roads and the Rainy Day and TennCare Reserve Funds established from the general fund to continue basic services and supports funding for critical public-private, state and local partnerships that provided services and supports for children and families until revenue returned to growth, ultimately restoring all but one of these important services, Home Visiting, to recurring funds.

If Tennessee chooses to abandon its dedicated use of the fuel tax to fund highways and turns to the general fund to build roads then there will be an erosion of these critical services leading to more children who fail in school, have mental health and substance abuse problems, and come into state custody, and fewer children who are prepared to be active citizens and contributing adults.

The Tennessee Commission on Children and Youth supports continued use of dedicated funding to support the state's transportation system and urges legislators to protect the general fund. Using the general fund to meet our highway needs will lead to the ultimate erosion of many critical services and supports for children and families. Tennessee has a long history of award winning, wise fiscal management. Part of that wise management has been the dedicated fuel tax that has led to recognition for some of the best highways in the country and a dedicated general fund to meet the education, child welfare, health, mental health, safety and other needs of children and families. Tennessee would be wisely served to continue that successful strategy and fund our highway system with future fuel tax increases.